

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 824 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BHIKHUBHAI NARISINHBHAI PATEL

Versus

MANAGING TRUSTEE

Appearance:

MR AD OZA for Petitioner

SERVED for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 09/10/96

ORAL JUDGEMENT

The petitioner who came to be appointed as a Head Master right from the beginning was given the benefit of

3 advance increments as he was to work in a school situated in rural area. The grant of advance increments was pursuant to a Government policy decision as disclosed by circular dated 23rd February 1968. The circular however was clear to the effect that this scheme will not apply to Head Masters.

2 No doubt, the respective District Education Officers went on approving the said grant of 3 advance increments in favour of the petitioner but eventually, inspection cell of DEO, Jamnagar, raised an objection and as per letter dated 6th February 1978 explanation of the petitioner was called maintaining the stand that no increments are available to a Head Master, the increment was illegal and the petitioner was asked to pay the amount back.

3 The petitioner therefore approached the Secondary Education Tribunal by way of Application No.156 of 1982 referring to the Government Circular and other relevant provisions. The learned Tribunal by order dated 21.10.1983 came to the conclusion that the scheme of grant of 3 advance increments cannot be allowed to a Head Master. The application of the petitioner came to be rejected. However, the order of recovery was quashed and set aside.

4 The present petition is therefore confined to the grievance of three advance increments not being continued as prayed for before the Tribunal. In other words, that is the only part of the judgment which has been challenged.

5 In my opinion, when the petitioner has in fact been appointed right from the beginning as a Head Master, obviously, he is not entitled to the said benefit. Anticipating this, the petitioner has placed reliance on government instruction issued as per Annexure-E, a letter dated 2.11.1966 written by the Director of Education, Ahmedabad. At page no.26 paragraph no.9 there is a reference to the situation available in backward and rural areas. The situation referred to is that in such areas, as stated above, trained and experienced teachers are not available and therefore in the school where they are not available fixation of additional increments may be given to Head Master also and this problem be carefully examined in that light. It further reiterates that benefit of advanced increments cannot be given to Head Masters of schools.

6 The instruction therefore only confirms the earlier decision that Head Masters are not entitled to the

benefit of advanced increments. However, in cases of schools that are in backward areas where trained and experienced teachers are not available, question of grant of advanced increments be sympathetically examined even in cases of Head Masters of such schools.

7 The learned Tribunal has dealt with this position in its order at page 18, internal page 8. I am in agreement with the observations of the learned Tribunal. Careful examination does not mean that decision has to be in favour of Head Masters. If the DEO has come to the aforesaid conclusion, it is obviously in keeping with the general policy that the Head Masters will not get the benefit. In that view of the matter, there is no substance in the petition. Hence, it is rejected. Rule is discharged. The interim relief if any is discharged.

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